

## REAL ESTATE APPRAISER EXAMINING BOARD[193F]

### Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 543D.5, the Real Estate Appraiser Examining Board hereby gives Notice of Intended Action to amend Chapter 9, “Renewal, Expiration and Reinstatement of Certificates and Registrations, and Inactive Status,” Chapter 11, “Continuing Education,” and Chapter 15, “Supervisor Responsibilities,” Iowa Administrative Code.

The proposed amendment to subrule 9.2(1) provides the Board the authority to send either electronic or paper renewal reminders to appraisers.

The proposed amendments to rules 193F—9.4(272C,543D) and 193F—9.5(272C,543D) separate the requirements for reinstatement and reactivation. The requirements have not changed; however, the current rules do not distinguish between the two. In addition, language regarding fees will now reference 193F—Chapter 12.

Proposed new subrule 9.4(6) provides consistency with the reinstatement requirements set forth in Chapter 4, “Associate Real Property Appraiser.” This subrule is not a federal requirement but it would be consistent with the current rules. The proposed subrule would prepare a lapsed or inactive associate appraiser to be closer to certification by requiring the associate appraiser to complete the education necessary to upgrade for certification rather than complete continuing education that could not be used for upgrading. Associate registration is not meant to be a permanent, long-term credential. Associates will have the opportunity to use qualifying education in a “double fashion” for reinstating or reactivating and upgrading. The proposed amendments in Chapter 9 also incorporate reinstatement and reactivation continuing education requirements that were previously contained in Chapter 11, “Continuing Education.”

The proposed amendments in Chapter 15 change the word “trainee” to “associate.” This change provides consistency throughout the administrative rules. In addition, the proposed amendment to paragraph 15.3(1)“a” specifies that a supervisor must not only be an active appraiser for three years but must be an active Iowa appraiser for three years. This change is in compliance with the January 1, 2015, Appraiser Qualification Criteria.

Consideration will be given to all written suggestions or comments received no later than 4:30 p.m. on October 7, 2014. Comments should be addressed to Toni Bright, Real Estate Appraiser Examining Board, 200 E. Grand Avenue, Suite 350, Des Moines, Iowa 50309. E-mail may be sent to [RealEstateAppraiserBoard@iowa.gov](mailto:RealEstateAppraiserBoard@iowa.gov).

A public hearing will be held on October 7, 2014, at 9 a.m. in the Board Office, 200 E. Grand, Suite 350, Des Moines, Iowa, at which time persons may present their views on the proposed amendments either orally or in writing. At the hearing, any person who wishes to speak will be asked to give the person’s name and address for the record and to confine remarks to the subject of the proposed amendments.

These amendments have no fiscal impact to the State of Iowa.

These amendments are subject to waiver or variance pursuant to 193—Chapter 5.

After analysis and review of this rule making, no jobs impact exists.

These amendments are intended to implement Iowa Code chapter 543D.

The following amendments are proposed.

ITEM 1. Amend subrule 9.2(1) as follows:

**9.2(1)** It is the policy of the board to mail or send electronic renewal notices to certified and associate appraisers ~~to~~ at the last address or e-mail address on file with the board in the May preceding certificate or registration expiration. Neither the failure of the board to ~~mail~~ send such a notice nor the licensee's failure to receive such a notice shall excuse the requirement to timely renew and pay the renewal fee.

ITEM 2. Amend rule 193F—9.4(272C,543D) as follows:

**193F—9.4(272C,543D) Failure to renew.**

**9.4(1)** The certificate or registration of a certified or associate appraiser shall lapse unless the appraiser:

~~a. Submits~~ submits a timely and sufficient renewal application by the expiration date, ~~or,~~

~~b. 9.4(2) Submits~~ A certified or associate appraiser may renew a certificate or registration after the expiration date by submitting a sufficient renewal application and biennial renewal fee, accompanied by an additional penalty of 25 percent of the biennial renewal fee, within 30 calendar days of the expiration date, accompanied by an additional penalty of 25 percent of the biennial renewal fee. The board will allow the reinstatement of a lapsed certificate or registration during the 30-day period following expiration for an appraiser who did not complete all required continuing education during the prior biennium but who will have sufficient continuing education if courses completed during the 30-day period following lapse are included; provided that such applicant must demonstrate 42 hours of qualifying continuing education rather than the 28 hours required to renew for those who completed all continuing education on a timely basis prior to the lapse. The continuing education completed between July 1 and July 30 that fulfills a shortage of continuing education in the prior biennium shall not be counted toward the continuing education required in a subsequent renewal.

**9.4(2) 9.4(3)** If a certified or associate appraiser fails to renew within the 30-day grace period provided for in subrule 9.4(1) ~~9.4(2), the certificate or registration shall lapse and the appraiser shall be required to reinstate in accordance with subrule 9.4(3) 9.4(5).~~

**9.4(3)** ~~The board may reinstate a lapsed certificate or registration upon the applicant's submission of the appropriate form, payment of a reinstatement fee of \$150, and submission of evidence of completion of all required continuing education.~~

**9.4(4)** Certified and associate appraisers are not authorized to practice or to hold themselves out to the public as certified or registered appraisers during the period of time that the certificate or registration is lapsed, including during the 30-day grace period following the lapse. Any violation of this subrule shall be grounds for discipline.

**9.4(5)** Reinstatement. The board may reinstate a lapsed certificate or registration upon the applicant's submission of an application to reinstate and completion of all of the following:

a. Paying a penalty as provided in rule 193F—12.1(543D); and

b. Paying the current renewal fee as provided in rule 193F—12.1(543D); and

c. Providing evidence of completed continuing education outlined in rule 193F—11.2(272C,543D), as modified for associate appraisers in subrule 9.4(6), if the licensee wishes to reinstate to active status; and

d. Providing a written statement outlining the professional activities of the applicant in the state of Iowa during the period in which the applicant's certificate or registration was lapsed. The statement shall describe all appraisal services performed, with or without the use of the titles described in Iowa Code section 543D.15, for all appraisal assignments that are required by federal or state law, rule, or policy to be performed by a certified real estate appraiser.

**9.4(6)** Special continuing education requirements for reinstating associate appraisers. The board seeks to ensure that associate appraisers make progress toward full completion of all qualifying education required for eventual certification, as provided in rules 193F—5.2(543D) and 193F—6.2(543D). As a result, an associate appraiser applying to reinstate a registration that has been lapsed for 12 months or longer shall apply, in addition to the most recent 7-hour USPAP course, only qualifying education toward the continuing education required for reinstatement, until all qualifying education has been completed. All qualifying education taken as continuing education may also be applied as qualifying education

toward certification. If the applicant has already completed all qualifying education or is required to have continuing education hours beyond those needed to fully complete all qualifying education, the applicant may use any approved continuing education course in addition to the mandatory 7-hour USPAP course.

ITEM 3. Amend rule 193F—9.5(272C,543D) as follows:

**193F—9.5(272C,543D) Inactive status.**

**9.5(1)** and **9.5(2)** No change.

**9.5(3) Affirmation.** The application form shall contain a statement in which the applicant affirms that the applicant will not engage in any practice prohibited by subrule 9.5(2) in Iowa without first complying with all rules governing ~~reinstatement~~ reactivation to active status. A person in inactive status may ~~reinstate~~ reactivate to active status at any time pursuant to subrule 9.5(6).

**9.5(4)** and **9.5(5)** No change.

**9.5(6) ~~Reinstatement~~ Reactivation.** A person registered as inactive shall apply ~~for reinstatement to reactivate~~ to active status prior to engaging in any practice in Iowa that requires certification or associate registration. An application ~~for reinstatement to reactivate~~ to active status shall be on a form provided by the board, shall demonstrate full compliance with all applicable continuing education requirements, and shall be accompanied by a ~~\$50 reinstatement change of status~~ fee and the biennial fee for active status as provided in rule 193F—12.1(543D). Prior to reactivation to active status, the applicant must complete all education that would have been required had the applicant been on active status, including the most recent seven-hour USPAP update course. All such continuing education must be verified whether or not the applicant has been in active practice in another jurisdiction. Additionally, the special continuing education requirements that apply to associate appraisers reinstating a lapsed registration, as provided in subrule 9.4(6), shall apply to associate appraisers reactivating to active status following a period of inactive status of 12 months or longer. Such an applicant shall be given credit for the most recent renewal fees previously paid if the person applicant applies for reinstatement to reactivate in the same biennium at other than the person's applicant's regular renewal date. A person An applicant changing from active to inactive status during a biennial renewal period shall not, however, be entitled to a refund of any of the fees previously paid to attain active status.

ITEM 4. Amend rule **193F—11.1(272C,543D)**, definition of “Distance education,” as follows:

“*Distance education*” means any education process based on the geographical separation of student and instructor. “Distance education” includes computer-generated programs; and webinars; ~~and home study/correspondence programs.~~

ITEM 5. Rescind the definition of “Home-study/correspondence program” in rule **193F—11.1(272C,543D)**.

ITEM 6. Amend rule 193F—11.2(272C,543D) as follows:

**193F—11.2(272C,543D) Continuing education requirements.**

**11.2(1)** Certified residential, certified general and associate appraisers must demonstrate compliance with the following continuing education requirements as a condition of biennial renewal:

*a.* No change.

*b.* The purpose of continuing education is to ensure that the appraiser participates in a program that maintains and increases the appraiser's skill, knowledge and competency in real estate appraising. Credit may be granted for educational offerings that are consistent with the purpose of continuing education. A minimum of 21 of the required 28 credit hours must involve courses that address one or more of the following subject areas: ~~real estate appraisal law and rules, report writing, cost approach, sales approach, income approach, economic principles, legal considerations in appraisal, real estate markets and analysis, highest and best use analysis, appraisal math and statistics, site value, valuation of partial interests or appraisal ethics~~ listed in subrule 11.4(2).

*c.* No change.

**11.2(2)** All continuing education credit hours may be acquired in approved classroom or distance education programs.

**11.2(3) and 11.2(4)** No change.

**11.2(5)** Prior to reinstatement or reactivation of a certified general registration or a certified residential registration, a certified credential holder in inactive or lapsed status must complete all required continuing education hours that would have been required if the certified credential holder was in active status. The required hours must also include the most recent edition of a 7-hour National USPAP Update Course. Waivers may not be granted to credential holders who have failed to meet the continuing education requirements.

**11.2(6) to 11.2(9)** No change.

ITEM 7. Amend rule 193F—11.4(272C,543D) as follows:

**193F—11.4(272C,543D) Minimum program qualifications.**

**11.4(1)** No change.

**11.4(2)** Continuing education programs dealing with the following subject areas that are integrally related to appraisal topics will generally be acceptable:

- a.* Ad valorem taxation;
- b.* Agriculture production and economics;
- c.* Agronomy/soil;
- d.* Approaches to value;
- ~~*d. e.*~~ Arbitrations, dispute resolution;
- ~~*e. f.*~~ ~~Business courses~~ Courses related to the practice of real estate appraisal or consulting;
- ~~*f. g.*~~ Construction cost or development cost estimating;
- ~~*g.*~~ ~~Cost approach;~~
- h.* Ethics and standards of professional practice, USPAP;
- ~~*i.*~~ ~~Income approach;~~
- ~~*j. i.*~~ Land use planning, or zoning and taxation;
- ~~*k.*~~ ~~Litigation;~~
- ~~*l. j.*~~ Management, leasing, ~~brokerage~~ time sharing;
- ~~*m. k.*~~ Property development, partial interests;
- ~~*n. l.*~~ Real estate appraisal law and rules;
- ~~*o. m.*~~ Real estate appraisal (valuations/evaluations);
- ~~*p. n.*~~ Real estate law, easements, and legal interests;
- ~~*o.*~~ Real estate litigation, damages, condemnation;
- ~~*q. p.*~~ Real estate financing and investment;
- ~~*r. q.*~~ Real estate appraisal-related computer applications;
- ~~*s. r.*~~ Real estate securities and syndication;
- ~~*s.*~~ Developing opinions of real property value in appraisals that also include personal property or business value, or both;
- ~~*t.*~~ Seller concessions and impact on value; and
- ~~*u.*~~ Energy efficient items and “green building” appraisals.
- ~~*t.*~~ ~~Real property exchange;~~
- ~~*u.*~~ ~~Production economies;~~
- ~~*v.*~~ ~~Sales approach;~~
- ~~*w.*~~ ~~USPAP.~~

**11.4(3)** The following programs will not be acceptable:

- a. to d.* No change.
- ~~*e.*~~ ~~Distance education programs which are not tested and successfully completed;~~
- ~~*f. e.*~~ Programs that do not provide at least ~~three~~ two credit hours.

**11.4(4) and 11.4(5)** No change.

ITEM 8. Amend subrules 11.5(2) and 11.5(6) as follows:

**11.5(2)** Live instruction programs must be taught by instructors who have successfully completed an instructor development workshop within 24 months preceding board approval of the program. Certified USPAP instructors shall be considered to have met this requirement.

**11.5(6)** ~~As of January 1, 2004, only~~ Only AQB-certified USPAP instructors, listed on the Web site of the Appraisal Foundation may teach the national USPAP courses including the 15-hour tested ~~prelicense~~ course and the 7-hour continuing education course.

ITEM 9. Adopt the following **new** subrule 11.5(20):

**11.5(20)** Providers must apply for approval using forms prescribed by the board.

ITEM 10. Amend subrule 11.6(3) as follows:

**11.6(3)** Course delivery mechanism approval is obtained from one of the following sources:

- a. No change.
- b. A college or university that qualifies for content approval pursuant to subrule 11.6(2) that awards academic credit for the distance education course; or
- c. A qualifying college or university for content approval with a distance education delivery program that approves the course design and delivery that incorporate interactivity.

ITEM 11. Adopt the following **new** subrule 11.6(4):

**11.6(4)** Distance education courses must include at least one of the following:

- a. A written examination proctored by an official approved by the college or university, or by the sponsoring organization. The term “written” in this subrule refers to an examination that may be written on paper or administered electronically on a computer or other device. Oral examinations are not acceptable.
- b. Successful completion of prescribed course mechanisms required to demonstrate knowledge of the subject matter.

ITEM 12. Amend rule 193F—11.7(272C,543D) as follows:

**193F—11.7(272C,543D) Applications for approval of providers and programs.** Applications for approval of ~~providers and~~ programs must be submitted on forms prescribed by the board. ~~Board approval is effective~~ All non-AQB courses are approved for 24 months, including the month of approval. AQB-approved courses are approved through the AQB expiration date, which may be longer than 24 months from the date of approval.

**11.7(1)** Approval must be obtained for each program separately.

**11.7(2)** A nonrefundable fee of \$50 must be submitted for each program except for programs that are submitted for approval by the primary provider and that have been approved by the Appraiser Qualifications Board through the Course Approval Program (CAP).

**11.7(3)** No change.

**11.7(4)** Application forms for non-AQB CAP courses will request information including, but not limited to, the following:

- a. Program description;
- b. Program purpose;
- c. ~~Difficulty level;~~
- d. c. Learning objectives ~~for each major topic~~ that specify the level of knowledge or competency the student should demonstrate upon completing the program;
- e. ~~d.~~ Description of the instructional methods utilized to accomplish the learning objective;
- f. ~~e.~~ Identifying information for all guest speakers or instructors and such documentation as is necessary to verify compliance with the instructor qualifications described in subrule 11.5(5);
- g. ~~f.~~ Copies of all instructor and student program materials;
- h. ~~g.~~ Copies of all examinations and a description of all grading procedures;
- i. ~~h.~~ A description of the diagnostic assessment method(s) used when examinations are not given;
- j. ~~Copies of prospective brochures or narrative descriptions of the program as will be advertised to prospective students;~~

~~k. i.~~ Such information as needed to verify compliance with board rules;  
~~k. j.~~ The name, address, telephone number, ~~fax number~~ and e-mail address for the program's coordinator;

~~m. k.~~ Such other information as the board deems reasonably needed for informed decision making.

**11.7(5)** Application forms for courses that are AQB CAP-approved shall include information as deemed necessary for accurate documentation but may be more limited than information required in subrule 11.7(4).

~~11.7(5)~~ **11.7(6)** The board shall assign each provider and program a number. This number shall be placed on all correspondence with the board, all subsequent applications by the same provider, and all certificates of attendance issued to participants.

ITEM 13. Amend rule 193F—11.9(272C,543D) as follows:

**193F—11.9(272C,543D) Continuing Authority to approve education committee.** Upon majority vote of the board, the board chairperson may appoint, on an annual basis, a continuing education committee to approve or deny, in whole or part, applications for provider and program approval and hardship and disability waivers pursuant to rule 193F—11.3(272C,543D), and credits claimed by appraisers on certification renewal forms. The committee shall be comprised of three members of the board, at least two of whom are appraisers. Alternatively, the board chairperson may delegate to the ~~The~~ executive secretary officer has the authority to approve or deny course education applications subject to the applicant's right to a hearing as provided for in rule 193F—~~11.12~~ **11.13**(272C,543D).

ITEM 14. Amend rule 193F—11.13(272C,543D) as follows:

**193F—11.13(272C,543D) Hearings.** In the event of denial, in whole or in part, of any application for approval of a continuing education program or provider, or credit for a continuing education program, or withdrawal of approval of a continuing education program or provider, the provider or appraiser shall have the right, within 20 days after the sending of the notification of the denial or withdrawal by ordinary mail, to request, in writing, a hearing which shall be held within 60 days after receipt of the written request for hearing. The hearing shall be conducted by the board, a panel of the board, or a qualified administrative law judge designated by the board. If the hearing is conducted by a panel of the board or an administrative law judge, a transcript of the hearing shall be presented to the board with the proposed decision. The decision of the board, or the decision of the panel of the board or an administrative law judge after adoption or amendment by the board, shall be final. may, within 30 days of the date of mailing of the notice of denial or withdrawal, request a contested case hearing before the board, as provided in rule 193—7.8(17A).

ITEM 15. Amend rules 193F—15.1(543D) to 193F—15.3(543D) as follows:

**193F—15.1(543D) Description.** The importance of the role of the supervisory appraiser places ethical and professional standards on those who serve in this capacity. The function of the supervisory appraiser is to help adequately prepare a ~~trainee~~ an associate to demonstrate professional competence and work independently upon issuance of full licensure. The supervisor is considered an integral part of the training process, and supervision should be considered a full-time, hands-on responsibility.

**193F—15.2(543D) Supervisory appraiser responsibilities.** Supervisory appraisers shall:

1. No change.
2. Adequately supervise a ~~trainee~~ an associate in the data-gathering process to ensure that the ~~trainee~~ associate is correctly and properly collecting pertinent and factual data for analysis.
3. Ensure that the ~~trainee~~ associate is knowledgeable about the various sources from which to gather data and that the data collected is reliable. The ~~trainee~~ associate should be exposed to any sources of research that would be considered by one's peers in the marketplace including cost manuals, multiple listing services, public records and Internet study.

4. Teach the ~~trainee~~ associate to reason independently and formulate reasonable conclusions based upon the analysis of the information gathered.

5. to 7. No change.

8. Expose a ~~trainee~~ an associate to as many different property types, report formats and value ranges as possible with the understanding that each time a new or unique assignment is introduced, there is a responsibility to instruct and educate the ~~trainee~~ associate to ensure competency.

9. Inspect each appraised property with the ~~trainee~~ associate until the supervisor determines the ~~trainee~~ associate is competent, in accordance with the COMPETENCY RULE of USPAP for the property type and geographic location.

10. Bring the ~~trainee~~ associate appraiser to a professional level that enables the ~~trainee~~ associate to demonstrate competency independently.

**193F—15.3(543D) Requirements for a supervisory appraiser.**

**15.3(1)** A supervisory appraiser shall:

*a.* Have a minimum of three years of experience as a ~~a~~ an Iowa certified appraiser, be in good standing in all jurisdictions, and be actively certified in Iowa during all periods when providing supervision.

*b.* Have a maximum of three ~~trainees~~ associates and shall register with the board the name, office address and starting date of each ~~trainee~~ associate, as well as any termination dates (voluntary or involuntary).

*c.* to *e.* No change.

**15.3(2) to 15.3(4)** No change.

ITEM 16. Amend **193F—Chapter 15**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~section~~ sections 543D.5 and 543D.22.